
PRELIMINARY DRAFT
No. 3275

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2008 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 6-1.1.

Synopsis: Property tax benefits for trusts. Specifies that a qualified personal residence trust is entitled to certain property tax deductions and the homestead credit during the period in which the grantor of the trust is entitled to occupy the residence rent free under the terms of the trust and is otherwise eligible for the deduction or credit.

Effective: Upon passage.



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-1-9 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) For purposes
3 of this article, the "owner" of tangible property shall be determined by
4 using the rules contained in this section.

5 (b) Except as otherwise provided in this section, the holder of the
6 legal title to personal property, or the legal title in fee to real property,
7 is the owner of that property.

8 (c) When title to tangible property passes on the assessment date of
9 any year, only the person obtaining title is the owner of that property on
10 the assessment date.

11 (d) When the mortgagee of real property is in possession of the
12 mortgaged premises, the mortgagee is the owner of that property.

13 (e) When personal property is security for a debt and the debtor is
14 in possession of the property, the debtor is the owner of that property.

15 (f) When a life tenant of real property is in possession of the real
16 property, the life tenant is the owner of that property.

17 (g) **When the grantor of a qualified personal residence trust**
18 **created under United States Treasury Regulation 25.2702-5(c)(2)**
19 **is:**

20 **(1) in possession of the real property transferred to the trust;**
21 **and**

22 **(2) entitled to occupy the real property rent free under the**
23 **terms of the trust;**

24 **the grantor is the owner of that real property.**

25 SECTION 2. IC 6-1.1-12-17.9, AS ADDED BY P.L.95-2007,
26 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 UPON PASSAGE]: Sec. 17.9. A trust is entitled to a deduction under
28 section 9, 11, 13, 14, 16, or 17.4 of this chapter for real property owned
29 by the trust and occupied by an individual if the county auditor
30 determines that the individual:

31 (1) upon verification in the body of the deed or otherwise, has



either:

(A) a beneficial interest in the trust; or

(B) the right to occupy the real property rent free under the terms of a qualified personal residence trust created by the individual under United States Treasury Regulation 25.2702-5(c)(2);

(2) otherwise qualifies for the deduction; and

(3) would be considered the owner of the real property under IC 6-1.1-1-9(f) or IC 6-1.1-1-9(g).

SECTION 3. IC 6-1.1-20.9-2, AS AMENDED BY P.L.224-2007, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as otherwise provided in section 5 of this chapter, an individual who on March 1 of a particular year either owns or is buying a homestead under a contract that provides the individual is to pay the property taxes on the homestead is entitled each calendar year to a credit against the property taxes which the individual pays on the individual's homestead. However, only one (1) individual may receive a credit under this chapter for a particular homestead in a particular year.

(b) The amount of the credit to which the individual is entitled equals the product of:

(1) the percentage prescribed in subsection (d); multiplied by

(2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, which is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of the property tax replacement credit under IC 6-1.1-21.

(c) For purposes of determining that part of an individual's property tax liability that is attributable to the individual's homestead, all deductions from assessed valuation which the individual claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property on which the individual's homestead is located must be applied first against the assessed value of the individual's homestead before those deductions are applied against any other property.

(d) The percentage of the credit referred to in subsection (b)(1) is as follows:

YEAR	PERCENTAGE OF THE CREDIT
1996	8%
1997	6%
1998 through 2002	10%
2003 through 2005	20%
2006	28%
2007 and thereafter	20%

However, the percentage credit allowed in a particular county for a



particular year shall be increased if on January 1 of a year an ordinance adopted by a county income tax council was in effect in the county which increased the homestead credit. The amount of the increase equals the amount designated in the ordinance.

(e) Before October 1 of each year, the assessor shall furnish to the county auditor the amount of the assessed valuation of each homestead for which a homestead credit has been properly filed under this chapter.

(f) The county auditor shall apply the credit equally to each installment of taxes that the individual pays for the property.

(g) Notwithstanding the provisions of this chapter, a taxpayer other than an individual is entitled to the credit provided by this chapter if:

(1) an individual uses the residence as the individual's principal place of residence;

(2) the residence is located in Indiana;

(3) the individual:

(A) has a beneficial interest in the taxpayer; or

(B) has the right to occupy the residence rent free under the terms of a qualified personal residence trust created by the individual under United States Treasury Regulation 25.2702-5(c)(2);

(4) the taxpayer either owns the residence or is buying it under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; and

(5) the residence consists of a single-family dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

SECTION 4. [EFFECTIVE UPON PASSAGE] IC 6-1.1-1-9, IC 6-1.1-12-17.9, and IC 6-1.1-20.9-2, all as amended by this act, apply to property taxes first due and payable after December 31, 2008.

SECTION 5. An emergency is declared for this act.

